Eight Mile Style, LLC et al v. Apple Computer, Incorporated
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EXHIBIT 6

Declaration of Kimberly Encinas

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UNITED STATES DISTRICT COURT
IN THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EIGHT MILE STYLE, LLC and
MARTIN AFFILIATED, LLC,

Plaintiffs

vs.

APPLE COMPUTER, INC. and
AFTERMATH RECORDS d/b/a
AFTERMATH ENTERTAINMENT,

Defendants.

Case No. 2:07-CV-13164
Honorable Anna Diggs Taylor
Magistrate Judge Donald A. Scheer

____________________________________/

DECLARATION OF KIMBERLY ENCINAS IN SUPPORT OF DEFENDANTS' MOTION TO BIFURCATE DISCOVERY DAMAGES AND TRIAL

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DECLARATION OF KIMBERLY ENCINAS

I, Kimberly Encinas, declare as follows:

1. I am an attorney in the law firm of Munger, Tolles & Olson LLP, counsel of record to Defendants in this action. The contents of this declaration are within my personal knowledge. If called as a witness in this action, I could and would testify competently to the contents of this declaration.

2. The parties exchanged written discovery requests in February 2008. These requests included Defendants' requests to Plaintiffs relating to evidence of ownership of the compositions in issue, as well as discovery by both sides into matters involving whether Defendants' sale of sound recordings that embody the compositions has been authorized. Plaintiffs have also served interrogatories and requests for documents that go to the question of damages under the Copyright Act. Specifically, Plaintiffs have served a variety of written requests for documents and information relating to Defendants' net profits from the distribution of the recordings that embody the compositions in issue. Plaintiffs have responded to several of Defendants' discovery requests – including requests directed to any evidence that Plaintiffs may have of their actual damages – by stating that the requests are premature until expert discovery commences. Plaintiffs have yet to produce a single document showing any of the damages they might claim as their own.

3. The parties exchanged responses to written discovery requests in late March 2008. Defendant Aftermath Records objected to Plaintiffs' requests for profit and loss information on the ground of burden, among other reasons. Defendant Apple Inc. has also objected to Plaintiffs' requests for profit and loss information, but has agreed to produce such information at this juncture because Apple's computer database system is able to generate profit and loss information by individual track.

4. Plaintiffs have requested the depositions of the following Aftermath-affiliated individuals: Rand Hoffman, Lisa Rogell, Scott Aronson, Peter Paterno, Chad Gary, Todd Douglas, Fred Eisler, and James Harrington. Plaintiffs also have indicated they intend to serve a notice of deposition of Defendant Apple Inc. pursuant to Rule 30(b)(6).

Executed this 9th day of May, 2008 at Los Angeles, California.

Kimberly Encinas

CERTIFICATE OF SERVICE

I hereby certify that on _______________, 2008, I electronically filed the foregoing document with the Clerk of the Court using the ECF system which will send notification of such filing to the all counsel.

s/Daniel D. Quick
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